

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Susan Seltzer

Plaintiff

v.

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.,

Defendant.

EXHIBIT A – ORDER FILED BY FINRA CHAIRPERSON ILENE GORMLY

The AWARD Document filed for 17-01857 states:

“On July 2, 2018, the Panel issued the following Order:

1. Ciam [sic] filed by IRA of... Seltzer et al against USBI is dismissed in its entirety with prejudice. Details will be in Award document. Motion for FINRA forum costs filed (orally) by Claimants is denied.”

The Award document was changed 65 days later to alter the July 2, 2018, Order, “After considering the pleadings, *the testimony and evidence presented at the hearing, and post-hearing submissions*, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants’ claims are dismissed with prejudice pursuant to FINRA Code Rule 12212(c).

However,


1. The **July 2, 2018, Order** (Exhibit A filed below) explicitly stated: “*After considering the pleadings submitted by the Parties, the Panel/Chairperson rules claim filed by IRA...*

is dismissed with prejudice. This dismissal was final and binding, requiring only the issuance of a formal Award reflecting the same conclusion; a dismissal with prejudice based on the parties' pleadings.

2. On July 9, 2018, USBI accepted the finality of the July 2, 2018, Order, stating it was not seeking any further relief and requesting the Panel enter a final Award consistent with the July 2, 2018, Order.
3. Despite the closed record and Respondents' acceptance, the Award document was altered, 65 days later, to state:

"After considering the pleadings, the testimony and evidence presented at the hearing, and post-hearing submissions, the Panel has decided... Claimants' claims are dismissed with prejudice pursuant to FINRA Code Rule 12212(c)."

Here is the Order and see "Ruling" herein and filed in the DR Portal distributed to all parties on July 2, 2018:

 FINRA Financial Industry Regulatory Authority	
FINRA Office of Dispute Resolution	
<u>ORDER</u>	
Case Number: 17-01857	
Case Name: IRA of Jonathan M. Seltzer et al v USBI	
Issues Addressed: (i.e., name of motion or request, by which party) Claims filed by Claimants, request for payment of FINRA forum fees by both parties, request for expungement, request for costs, other outstanding motions and requests	
Pre-Hearing Conference Held? <input type="radio"/> Yes <input checked="" type="radio"/> No	
Date/Time:	
Participating in the conference were:	
Chairperson: _____	
Panelist: _____	
Panelist: _____	
#1 Claimant's Representative: _____	
#2 Claimant's Representative: _____	
#1 Respondent's Representative: _____	
#2 Respondent's Representative: _____	

FINRA Dispute Resolution Staff: _____

Decided by: ☐ Chairperson ☒ Panel

Rulings:¹

After considering the pleadings submitted by the parties (and oral arguments, if pre-hearing conference held), the Panel/Chairperson rules as follows:

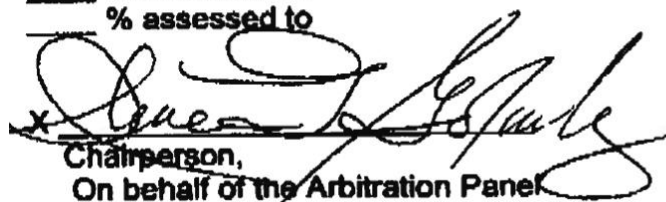
1 If more space is needed, add additional pages.

1. Claim filed by IRA of [REDACTED] Seltzer et al against USBI is dismissed in its entirety with prejudice. Details will be in Award document. Motion for FINRA forum costs filed (orally) by Claimants is denied. Motion for FINRA forum costs for hearing June 25-28 filed (orally) by Respondent is granted. Other Motions seeking costs contained in Respondent's Answer dated January 12, 2018 will be decided by the panel after clarification (see #2 below) if clarification indicates that additional costs are sought.
2. Respondent is requested to clarify its request for costs in its Answer to Claimants' Amended Consolidated Statement of All Prior Claims dated January 12, 2018 (the "Answer") Section VI Prayer for Relief. If Respondent is seeking attorney fees, please submit legal authority. If Respondent seeks any FINRA fees in addition to those in #1 above, please clarify that request. Respondent is requested to clarify the request for expungement contained in its Answer Section VI Prayer for Relief: which individuals seek expungement, the prongs of Rule 2080 under which expungement is sought, and reasons why expungement is justified.
3. Respondent's motions for expungement and costs will be considered after clarification on both issues is received from Respondent and responded to by Claimants (if they choose to respond). No other motions will be considered. Respondents shall comply with this Order by July 13, 2018. Claimants shall respond by July 16, 2018

The parties should comply with this order by (date): see #3 above

If the parties settle this matter prior to the hearing, the forum fees for this pre-hearing conference (or discovery-related motion decided without a pre-hearing conference) are assessed as follows:

____ % to Claimant(s), jointly and severally
____ % to Respondent(s), jointly and severally
____ % assessed to
____ % assessed to
____ % assessed to
____ % assessed to


Chairperson,
On behalf of the Arbitration Panel

Date: July 2, 2018